



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

April 5, 2016

William Clark
Columbus County Manager
111 Washington Street
Whiteville, North Carolina 28472

Notice of Warning and Notice of Deficiency

Re: Violation of N. C. General Statute §19A-32.1(a), (d) and (e) and Title 02, N. C. Administrative Code ("NCAC") Chapter 52J, Section .0210 (c).

AWS-WL-2016-12

Animal Shelter: Columbus County Animal Shelter
Registration No. 2

Dear County Manager Clark:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N. C. Department of Agriculture and Consumer Services ("NCDA&CS") received a complaint against Columbus County Animal Shelter ("the shelter") concerning an alleged failure to provide veterinary care for an injured dog. Based on this information AWS initiated an investigation. The investigation included a site visit, interviews with shelter and veterinary staff, review of shelter records and review of veterinary medical records for the dog at issue.

The investigation revealed that the Columbus County Animal Control Officer took the injured dog directly to the veterinary clinic on March 14, 2016. The shelter worker picked up the dog from the veterinary clinic on March 15, 2016 with prescription medications and instructions for administration. On March 15, 2016, the veterinarian spoke with the shelter manager on the telephone directing her to change the dog's bandage and start the medications. The shelter transferred the dog to a rescue organization on March 16, 2016 without changing the bandage and without administering the medications. The paperwork indicates that this dog was adopted by the rescue organization on March 16, 2016, which was less than 72 hours after shelter intake.

Based on the results of this complaint investigation, the shelter may have violated the following regulations:

- 1) N. C. General Statute §19A-32.1(a), (d) and (e); and
- 2) NCAC 52J .0210 (c).

In regard to N. C. General Statute §19A-32.1(a), (d) and (e), AWS notes the new form entitled "Animal Adoption/Rescue Waiver and Release" that was developed as a result of the site visit for this complaint. The shelter staff offered that this new form explains the foster policy of the shelter. AWS would recommend that there be a clear cut distinction between fostering and adoption, so there is no confusion between a temporary foster versus a permanent adoption. Furthermore, the shelter forms should clearly reflect that distinction.

In regard to NCAC 52J .0210(c), AWS acknowledges and appreciates the county providing immediate veterinary care for this injured animal by taking him to a veterinary clinic. The potential failure to provide veterinary care arose from the failure to administer the medication and the failure to change the bandage as directed by the veterinarian.

This Warning Letter and Notice of Deficiency serves as written warning that continued or future violation of the N. C. Animal Welfare Act and the rules issued pursuant thereto may result in disciplinary action against your facility's license pursuant to N. C. General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N. C. General Statute §19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,

 DVM MS

Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

Enclosure

cc: Dr. R. Douglas Meckes, State Veterinarian
Joe Reardon, Assistant Commissioner, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

- (a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.
- (d) During the minimum holding period, an animal shelter may place an animal it is holding into foster care by transferring possession of the animal to an approved foster care provider, an approved rescue organization, or the person who found the animal. If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of as provided in subsection (f) of this section.
- (e) If a shelter places an animal in foster care, the shelter may, in writing, appoint the person or organization possessing the animal to be an agent of the shelter. After the expiration of the minimum holding period, the shelter may (i) direct the agent possessing the animal to return it to the shelter, (ii) allow the agent to adopt the animal consistent with the shelter's adoption policies, or (iii) extend the period of time that the agent holds the animal on behalf of the shelter. A shelter may terminate an agency created under this subsection at any time by directing the agent to deliver the animal to the shelter. The local government or organization operating the shelter, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

SECTION .0200 - FACILITIES AND OPERATING STANDARDS

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. March 23, 2009; January 1, 2005.